

# Exhibit 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BLUDGEON RIFFOLA, LTD.,

Plaintiff,

-vs-

THE PARTNERSHIPS AND  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A,"  
et al.,

Defendants.

Case No. 21 C 2525

Chicago, Illinois  
August 2, 2021  
Time

TRANSCRIPT OF TELEPHONIC PROCEEDINGS  
BEFORE THE HONORABLE GARY FEINERMAN

APPEARANCES:

For the Plaintiff: GREER, BURNS & CRAIN, LTD.  
BY: MR. ISAKU BEGERT  
(via telephone 300 South Wacker Drive  
conference call) 25th Floor  
Chicago, Illinois 60606  
(312) 360-0800

Court Reporter:

CHARLES R. ZANDI, CSR, RPR, FCRR  
Official Court Reporter  
United States District Court  
219 South Dearborn Street, Room 2144-G  
Chicago, Illinois 60604  
Telephone: (312) 435-5387  
email: Charles\_zandi@ilnd.uscourts.gov

1 (Proceedings heard in open court:)

2 THE CLERK: 21 C 2525, Bludgeon Riffola versus The  
3 Partnerships.

4 THE COURT: Good morning. Who do we have for the  
5 plaintiff?

6 MR. BEGERT: Good morning, your Honor. Isaku Begert  
7 on behalf of the plaintiff.

8 THE COURT: Good morning. And do we have anybody on  
9 the line for any of our defendants, including QiaoBa999?  
10 That's Q-I-A-O, capital B-A 999.

11 Do we have any of our defendants on the line for the  
12 Bludgeon Riffola/Def Leppard case?

13 Okay. Nobody's responded. This matter was set for  
14 hearing at 9:00 o'clock. It's now a little after 9:00, so  
15 we'll proceed.

16 We have a motion to dismiss and to dissolve the  
17 preliminary injunction from that defendant and a motion to  
18 strike the reply, which is docket 57, from the plaintiff,  
19 moving to strike the defendant's reply. I'm going to deny  
20 that motion.

21 On QiaoBa's motion to dismiss, which is docket 44,  
22 I'm going to deny the motion to dismiss -- well, actually,  
23 no, I'm going to enter and continue the motion to dismiss,  
24 pending jurisdictional discovery.

25 And could you tell me where things stand on

1 jurisdictional discovery?

2 MR. BEGERT: Yes, your Honor. We served discovery  
3 requests on this defendant, and we are awaiting --

4 THE COURT: I'm sorry. You're kind of fading out  
5 there. If you could speak into the --

6 MR. BEGERT: I'm sorry. Is that a little bit  
7 clearer, your Honor?

8 THE COURT: Much better, yes.

9 MR. BEGERT: Okay. We served jurisdictional  
10 discovery requests on this defendant, and we are -- on  
11 July 20th, and we are waiting those responses, which are  
12 due on August 20th.

13 THE COURT: Okay. All right. The one point that  
14 the defendant made that I think may have some merit has to  
15 do with the breadth of the preliminary injunction, and in  
16 particular the restraining order on the money in the  
17 defendant's Amazon account.

18 There's, you know, about -- according to the  
19 defendant, there's about \$150,000 in the Amazon account;  
20 and according to the defendant, there were four infringing  
21 sales, which may be, probably is, out of whack.

22 Much of your response to the motion to dissolve the  
23 preliminary injunction went to likelihood of success on the  
24 merits and the fact that there's infringement, and I think --  
25 I think you're -- I think you at least at this juncture have

1 a good argument that there was infringement; but I didn't see  
2 much -- well, a little bit, but I didn't see much on whether  
3 the asset restraint of about \$150,000 is proportional to what  
4 appears at least to be the extent of the infringement.

5 Would you like to speak to that issue?

6 MR. BEGERT: Yes, your Honor. As plaintiff --  
7 plaintiff's position is that, you know, the burden is clearly  
8 on the defendant to show that these assets are not connected  
9 to its counterfeiting operations, and defendant has presented  
10 no verifiable and sworn evidence to that point.

11 Moreover, they say that there's only four sales for  
12 less than \$100, but that is only for the exact identical --  
13 like the exact same item listing with the exact same Amazon  
14 number. So, that doesn't go to -- I mean, they have over  
15 10,000 sales; and it doesn't -- nothing in defendant's  
16 response -- they have submitted no evidence to identify or  
17 determine what any of those other sales are.

18 So, the four sales that they're alleging --

19 THE COURT: If they were -- but if they were sales  
20 of Def Leppard merchandise, you'd be able to identify the  
21 offer for sale, right? And you didn't do that except for  
22 that one product.

23 MR. BEGERT: Well, your Honor, these  
24 counterfeiters -- in my experience, these counterfeiters are  
25 very quick to respond and pull their other listings that have

1     been up that they have been making sales on as soon as we --

2             THE COURT: Well, no, not before you filed the  
3     complaint. I mean, you filed the complaint, and then you  
4     filed the motion for a TRO. At that point, the defendant  
5     did not know what you were up to, so if there were other  
6     infringing products, you guys are good lawyers, you would  
7     have found them, right?

8             MR. BEGERT: Well, your Honor, while that would be  
9     true in theory, in our experience, we have found that actually  
10    quite often -- I mean, sometimes they will change between the  
11    initial screen shot of the listing, they'll change it before  
12    we even finish making the order, I mean, within a matter of a  
13    minute or two.

14            They are -- they have gotten very sophisticated in  
15    their techniques to detect our enforcement efforts.

16            THE COURT: Right. But --

17            MR. BEGERT: So that is one of the --

18            THE COURT: Then that's your fault. If you place  
19    an order and then they see it's to a Chicago or an Evanston  
20    address, they probably know what's up. You could take your  
21    screen shots before you place an order. And all I have here  
22    is a screen shot with one product.

23            MR. BEGERT: Yes, your Honor. But however, plaintiff  
24    maintains that defendant has not produced evidence to show  
25    that these sales are not the product of counterfeit sales of

1 Def Leppard products, so we believe that the defendant has not  
2 met their burden to show that, and that's --

3 THE COURT: Well, you didn't meet your initial burden  
4 of showing, which you could have, that there were other  
5 products -- other Def Leppard products being sold or being  
6 offered for sale, so why does the defendant have to prove a  
7 negative?

8 MR. BEGERT: Well, respectfully, your Honor, that is  
9 also the purpose of the jurisdictional discovery that you  
10 granted that we have sent out. So, those responses, we will  
11 be able to -- we will be able to address this issue.

12 THE COURT: No. You don't need jurisdictional  
13 discovery to go to their website incognito and take a screen  
14 shot of all the infringing products being offered for sale,  
15 right?

16 MR. BEGERT: If -- your Honor, respectfully, that is  
17 only the case if we know every single storefront and Amazon  
18 store and website --

19 THE COURT: But this is only one Amazon store. Your  
20 investigators went to that Amazon store, took a screen shot  
21 of all the Def Leppard infringing materials being offered for  
22 sale. There was just one product, and that was it. And you  
23 made a good case that this store was selling that infringing  
24 product.

25 And now you're speculating about all the other

1 products that this store could have been offering for sale  
2 and selling; but if the store were offering it for sale, you  
3 could have easily captured it with a screen shot, and you  
4 didn't, right?

5 MR. BEGERT: Respectfully, your Honor, I -- that is  
6 not necessarily the case, but -- in my opinion, but I -- your  
7 point is well-taken; however --

8 THE COURT: Go ahead.

9 MR. BEGERT: No, go ahead, your Honor.

10 THE COURT: I cut you off. If you were going to say  
11 something else, I wanted to give you a chance.

12 All right. So --

13 MR. BEGERT: Respectfully --

14 THE COURT: Oh, go ahead.

15 MR. BEGERT: Go ahead, your Honor.

16 THE COURT: I want you to make whatever argument you  
17 wanted to make; and then I think you're done, and then we talk  
18 over each other. So, if you have anything else to say, I want  
19 to give you a chance; but if not, I'll go ahead.

20 MR. BEGERT: Go ahead, your Honor. I believe I've  
21 stated our position.

22 THE COURT: For the reasons that I've just explored  
23 with plaintiff's counsel, the restraining order -- the asset  
24 restraint is very overbroad. Just to sum it up, it appears  
25 that there's only one product for sale. The defendant has



1 stated and given a screen shot to show that there were only  
2 four such products sold -- four such items sold within that  
3 product category.

4           The plaintiff is speculating that there are other  
5 Def Leppard infringing products being sold; but if there  
6 were, I am sure that the plaintiff's investigators would  
7 have found and taken screen shots of those products before  
8 any orders were placed, and they didn't. So, all I have is  
9 speculation on the plaintiff's side that there was more than  
10 one kind of infringing product being sold.

11           So, what I'm going to do is I'm going to grant in  
12 part and deny in part the portion of the plaintiff's motion,  
13 docket 44, that seeks to dissolve the preliminary injunction.  
14 All the -- all the parts of a preliminary injunction that  
15 speak to the defendant not being able to sell infringing  
16 merchandise, that stays in place.

17           The asset restraint also will stay in place, but only  
18 up to \$10,000. And the asset restraint otherwise is dissolved  
19 as to this one defendant, as is any other restriction -- other  
20 than not selling infringing products, any other restriction on  
21 the defendant's operation of that particular store.

22           So, I'll write this up in a minute order, and I'll  
23 count on plaintiff's counsel sending a copy of it to Amazon  
24 so Amazon knows what assets need to be restrained and what  
25 business activities need to be restrained and which ones do

1 not. All right?

2 MR. BEGERT: Yes, your Honor.

3 THE COURT: Anything further, other than setting a  
4 new status date?

5 MR. BEGERT: Yes, your Honor. I just would like to  
6 advise that plaintiff also intends to move to keep  
7 the additional assets restrained under Federal Rule of Civil  
8 Procedure 64. So, we will -- we will get that on file  
9 shortly.

10 THE COURT: Okay. That's fine. Yeah, you're always  
11 entitled to come back if you have a better record. No problem  
12 at all.

13 So, given that the discovery responses are not due  
14 until August 20th, Jackie, let's do this. Why don't we set  
15 this for a status hearing during the week of September 13th.

16 THE CLERK: Sure. How about September 13th at  
17 9:00 a.m.

18 MR. BEGERT: Works for us, your Honor.

19 THE COURT: And then let me ask the plaintiff to  
20 file a status report by the 8th just giving an update on the  
21 jurisdictional discovery.

22 MR. BEGERT: Yes, your Honor.

23 THE COURT: All right. Thanks. We'll get back  
24 together in September.

25 MR. BEGERT: Thank you, your Honor.

1 THE COURT: Thanks.

2 (Which were all the proceedings heard.)

3 CERTIFICATE

4 I certify that the foregoing is a correct transcript from  
5 the record of proceedings in the above-entitled matter.

6

7 */s/Charles R. Zandi*

*August 3, 2021*

8 Charles R. Zandi  
9 Official Court Reporter

Date

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25